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AUG 29 2003

Federal Communications Commission  
Office of the Secretary

August 29, 2003

VIA HAND DELIVERY

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Room CY-B-402  
445 12th Street, S.W.  
Washington, D.C. 20554

Re: Joint Application by SBC Communications Inc., et al., for Provision of In-Region, InterLATA Services in Illinois, Indiana, Ohio, and Wisconsin, WC Docket No. 03-167

Dear Ms. Dortch:

I am enclosing the joint reply filing of SBC Communications Inc., et al., ("SBC") in the above-referenced matter. This filing consists of the Reply Comments and a Reply Appendix, containing affidavits and other supporting material.

Because this reply filing contains confidential information, SBC is filing both confidential and redacted versions. Specifically, this reply filing includes:

- a. One original of the portions of the filing that contain confidential information;
- b. One original and four copies of the filing, redacted for public inspection; and
- c. Five CD-ROM copies of the filing, redacted for public inspection.

**REDACTED – For Public Inspection**

Marlene H. Dortch  
August 29, 2003  
Page 2

Under separate cover, SBC is providing copies of this filing (redacted as appropriate) to Susan Pié, Policy and Program Planning Division, Wireline Competition Bureau, Federal Communications Commission, Room CY-B-402, 455 12th Street, S.W., Washington, D.C. 20544. SBC is also providing copies (redacted as appropriate) to the Department of Justice, and Qualex (the Commission's copy contractor)

All inquiries regarding access to any confidential information included with this filing (subject to the terms of the applicable protective order) should be addressed to:

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Yours truly,



Colin S. Stretch

Enclosures

**REDACTED – For Public Inspection**

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of

Joint Application by SBC Communications Inc.,  
Illinois Bell Telephone Company, Indiana Bell  
Telephone Company Incorporated, The Ohio Bell  
Telephone Company, Wisconsin Bell, Inc., and  
Southwestern Bell Communications Services, Inc.  
for Provision of In-Region, InterLATA Services  
in Illinois, Indiana, Ohio, and Wisconsin

WC Docket No. 03-167

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Federal Communications Commission  
Office of the Secretary

To: The Commission

**SBC'S REPLY COMMENTS  
IN SUPPORT OF ITS APPLICATION FOR PROVISION OF IN-REGION,  
INTERLATA SERVICES IN ILLINOIS, INDIANA, OHIO, AND WISCONSIN**

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## EXECUTIVE SUMMARY

The volume of competition represented in this Application is unprecedented. Previous Bell company applicants under section 271 have hinged their applications for regionwide relief on a single “anchor” state with advanced levels of competition, followed by additional states where CLECs had made fewer inroads. SBC’s Midwest region, by contrast, shows extremely high levels of competition *everywhere*. In each of the states represented in this Application, CLECs have won at least 15% of the market, and in Illinois, for example, they’ve won twice that. Excluding Michigan – which was filed before this Application and is now pending in a separate docket, and which itself has witnessed extraordinary CLEC penetration – these percentages add up to at least 4.2 *million* access lines that CLECs are serving today in the SBC Midwest region.

This widespread, extensive competition can mean only one thing: that SBC Midwest has opened the local markets in the applicant states, and it is providing CLECs with everything they need to compete. The comments filed in this proceeding confirm as much. The vast majority of them – 99 out of the 114 parties participating in the proceeding – unequivocally support the Application. These comments, most of which were filed by parties representing the interests of consumers and small businesses throughout the Midwest region, recognize that competition has come to the local market, and they now want to see it come to long distance.

The state commissions for the applicant states recognize the same thing. These state commissions have monitored SBC Midwest’s efforts to open the local market to competition for *seven* years. They know from first-hand experience that SBC Midwest has satisfied the checklist and that local markets are accordingly open, and they are equally certain that consumers in their states stand to gain immeasurably if SBC Midwest is permitted to provide long-distance service.

This Commission has long held that, "where the state has conducted an exhaustive and rigorous investigation into the BOC's compliance with the checklist, we may give evidence submitted by the state substantial weight in making our decision." E.g., Texas Order ¶ 51. That principle applies four-fold here, as each state commission has vigorously investigated the BOC Applicants' compliance with the competitive checklist, and each has reached the same conclusion: that SBC Midwest has taken all the steps necessary to warrant interLATA relief.

As it has in virtually every section 271 proceeding to date, AT&T opposes SBC's bid to compete for its long-distance customers. Yet in doing so, AT&T, despite its years of experience in the local market in the Midwest region and its huge and rapidly growing customer base, can find no significant operational concerns to report. That is no surprise. AT&T has emphasized that it will not enter states where there are "flaws" in the incumbent's network or where it is not "certain it could serve customers without disruption" – as one AT&T executive explained, "[w]e're not going to go into a community where we don't trust the [ILEC's] system." More than any other fact in this proceeding, AT&T's real-world experience – its aggressive entry in the Midwest region, and the extraordinary successes it is achieving there – belies its overheated rhetoric to the effect that the local markets at issue are in fact closed to competition.

In any event, AT&T's objections here are by and large the same ones that were raised and rebutted in the Michigan proceeding. Thus, for example, AT&T, along with several other commenters, disputes the accuracy of SBC's wholesale bills. But SBC's showing in this respect

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\* Steve Alexander, Judge Recommends Qwest Be Fined for Impeding Local Service by AT&T, Star Tribune (Minneapolis, Minn.), Feb. 26, 2002, at 3D; David DeKok, Verizon To Market Long-Distance Service, Patriot-News, Sept. 20, 2001, at B9; Sharon Smith, Telecom Companies Continue Battle over Local Telephone Service in York, Pa., York Daily Record, Nov. 24, 2000.

is based on a wealth of evidence, including comprehensive third-party testing more extensive than any BOC applicant for 271 relief has provided previously, along with authoritative statements from state commissions that SBC Midwest's bills are sufficiently accurate, reliable, and timely to provide CLECs a meaningful opportunity to compete. In the face of that objective evidence, commenters offer two categories of complaints: (1) lists of telephone numbers that they claim are being improperly billed, and (2) allegations of billing disputes that they claim prove SBC is billing inaccurately. As to the former, SBC decisively demonstrated in Michigan – and does so again in this reply – that the vast majority of numbers the CLECs claim are being improperly billed are in fact being properly billed, and that the bulk of any discrepancies is the result of the CLECs' own recordkeeping errors. As to the latter, the Commission has repeatedly and properly held that, in the absence of evidence demonstrating a systemic flaw in the billing systems – something that no party has even attempted to demonstrate – self-interested claims of alleged billing errors are insufficient to show checklist noncompliance.

As it did in the pending Michigan application, the Department of Justice ("DOJ" or "Department") sees things differently. In its view, "the record does not permit" it to conclude that SBC Midwest's bills are sufficiently accurate and reliable to satisfy the checklist. But the portion of "the record" on which the DOJ relies in reaching this conclusion is decidedly incomplete. Thus, for example, the DOJ notes that *BearingPoint's* testing of SBC Midwest's billing systems "did not identify . . . errors" related to the ACIS-CABS conversion, but it simply ignores *Ernst & Young's* validation related to that same event. Likewise, the Department notes AT&T's claims that SBC has misbilled more than 1,900 telephone numbers, but it does not

engage the evidence SBC filed with its Application demonstrating that the vast majority of those numbers are in fact being billed correctly.

More fundamentally, neither the DOJ nor any other commenter makes any serious attempt to demonstrate that the billing issues raised in this Application deprive CLECs of a meaningful opportunity to compete. To be sure, the DOJ's evaluation suggests the *possibility* that the alleged billing "problems" might have that effect. But the only real evidence it cites in this regard is the CLECs' self-interested assertion that they are required to devote resources to checking their bills. Such assertions are not new in the section 271 context; similar ones were made as recently as last fall. The only thing new about them here is that, this time, the Department has decided to credit them, whereas previously they did not even warrant a mention.

AT&T's and other commenters' claims with respect to line splitting are likewise insufficient to rebut SBC Midwest's showing of checklist compliance. As an initial matter, no party disputes that SBC Midwest's processes in this regard are the same as were in place when the Commission approved SBC applications in Texas, Kansas, Oklahoma, Missouri, and Arkansas. If SBC's processes were good enough for approval in those states – and the Commission held that they were – they are equally sufficient here.

That conclusion is especially appropriate with respect to SBC's processes for converting line splitting back to UNE-P, where AT&T and other commenters train most of their fire. SBC has received few actual requests for this type of conversion in any of its regions to date. Moreover, the CLECs have only just begun to discuss the process with SBC. And, while SBC's existing process is plainly nondiscriminatory and consistent with the Commission's rules, SBC has made clear its willingness to work with the CLECs in developing a new process that would

meet their evolving needs, and it is in fact working to do so with the one CLEC who has – for this issue at least – put aside its regulatory gamesmanship and confirmed its willingness to move the process forward in a constructive fashion.

Continuing the pattern of rehashing claims litigated in the Michigan proceeding, some commenters continue to argue that the mere fact that BearingPoint has not yet finished its performance measurement review is evidence that the performance measurements themselves are inaccurate or unreliable. As SBC explained in its Application, Ernst & Young (“E&Y”) not only comprehensively reviewed SBC Midwest’s performance data – using a methodology this Commission has repeatedly approved – it also validated the corrective actions SBC took in response to that review. This evidence provides a compelling prima facie case that the data reliably reflect SBC Midwest’s actual performance, and shifts the burden to the parties to present evidence – not conjecture – rebutting that conclusion. No party has even attempted to do so.

The few additional issues raised in this proceeding that are new – i.e., that have not been raised and rebutted in Michigan – can be disposed of quickly:

- Commenters’ challenges to SBC Midwest’s OSS run headlong into two undisputed facts: SBC’s systems are handling extremely high commercial volumes with no systemic performance problems, and those systems have been thoroughly tested by BearingPoint (which these same commenters identify as the gold standard with respect to testing for data integrity).
- AT&T’s and NuVox’s challenges to Ohio Bell’s and Indiana Bell’s method for charging for collocation power is not properly presented here, and it is in any case based on a factual representation regarding how power is consumed that AT&T has expressly repudiated elsewhere.
- Globalcom’s challenge to the rates for one particular type of UNE combination – a noncollocated DS1 EEL – does not even allege (much less prove) a TELRIC violation, and it ignores the fact that, when considered in the aggregate, the recurring and nonrecurring rates that apply to that combination are entirely reasonable.

- ACN's challenge to Illinois Bell's loop rates is concededly hypothetical – i.e., it turns on what *might* happen when the Seventh Circuit resolves a now-pending appeal related to Illinois Bell's rates. As the Commission has recognized many times before in analogous circumstances, the pendency of this litigation in the Seventh Circuit is irrelevant to the question of SBC's checklist compliance.
- Commenters' allegations with respect to "unproductive truck rolls" refer to a phenomenon which, while unfortunate, occurs only in a minute number of new orders and affects SBC's wholesale and retail operations alike.
- AT&T's challenge to Ohio Bell's reciprocal compensation arrangements is directed at agreement language on which Ohio Bell does not rely in this Application and is in any event premised on a reading of FCC rules that this Commission has never adopted.
- Commenters' mish-mash of "public interest" allegations fall well short of rebutting the Commission's long-standing presumption that, where, as here, the checklist is satisfied, BOC entry into long distance enhances the public interest.

\* \* \* \*

The record in this proceeding demonstrates that SBC Midwest has done everything that Congress and this Commission have asked of it in implementing the local competition provisions of the 1996 Act and opening the local market. And the results are clearly evident: CLECs have established a large and rapidly growing base throughout the entire Midwest region. The state commissions that have reviewed this Application number among the strongest and most respected public service commissions in the nation, and they recognize that SBC Midwest has taken all the steps necessary to satisfy the competitive checklist. Under the standards set out in the Act and this Commission's prior orders, this Commission should grant this Application and authorize SBC to provide interLATA services in Illinois, Indiana, Ohio, and Wisconsin.

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Reply Appendix:     Reply Affidavits

Tab 1.	Scott J. Alexander (Wholesale Policy Issues)
Tab 2.	Justin W. Brown, Mark J. Cottrell, and Michael E. Flynn (Billing)
Tab 3.	Justin W. Brown, Mark J. Cottrell, and Beth Lawson (OSS and Local Service Centers)
Tab 4.	Jolynn B. Butler (Indiana State Proceedings/Pricing)
Tab 5.	Carol A. Chapman (Advanced Services)
Tab 6.	Carol A. Chapman, W. Karl Wardin, Jolynn B. Bulter, Daniel R. McKenzie, and Scott T. VanderSanden (Nonrecurring Charges)
Tab 7.	William C. Deere (Network Issues)
Tab 8.	James D. Ehr (Performance Measures)
Tab 9.	James D. Ehr and Salvatore T. Fioretti (Third-Party Performance Data Evaluation)
Tab 10.	John J. Muhs (Network Operations)
Tab 11.	Bernard E. Valentine (E911/911)

Tab 12. Scott T. VanderSanden  
(Wisconsin Pricing)

Tab 13. W. Karl Wardin  
(Illinois Pricing)

## GLOSSARY OF 271 ORDERS

<u>Arkansas/Missouri Order</u>	<u>Joint Application by SBC Communications Inc., et al. Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region, InterLATA Services in Arkansas and Missouri, Memorandum Opinion and Order, 16 FCC Rcd 20719 (2001), aff'd, AT&amp;T Corp. v. FCC, No. 01-1511, 2002 WL 31558095 (D.C. Cir. Nov. 18, 2002) (per curiam)</u>
<u>BellSouth Five-State Order</u>	<u>Joint Application by BellSouth Corp., et al., for Provision of In-Region, InterLATA Services in Alabama, Kentucky, Mississippi, North Carolina, and South Carolina, Memorandum Opinion and Order, 17 FCC Rcd 17595 (2002)</u>
<u>California Order</u>	<u>Application by SBC Communications Inc., et al. for Authorization to Provide In-Region, InterLATA Services in California, Memorandum Opinion and Order, 17 FCC Rcd 29650 (2002)</u>
<u>Georgia/Louisiana Order</u>	<u>Joint Application by BellSouth Corp., et al., for Provision of In-Region, InterLATA Services In Georgia and Louisiana, Memorandum Opinion and Order, 17 FCC Rcd 9018 (2002)</u>
<u>Kansas/Oklahoma Order</u>	<u>Joint Application by SBC Communications Inc., et al., for Provision of In-Region, InterLATA Services in Kansas and Oklahoma, Memorandum Opinion and Order, 16 FCC Rcd 6237 (2001), aff'd in part and remanded, Sprint Communications Co. v. FCC, 274 F.3d 549 (D.C. Cir. 2001)</u>
<u>Maryland/D.C./West Virginia Order</u>	<u>Application by Verizon Maryland Inc., et al., for Authorization To Provide In-Region, InterLATA Services in Maryland, Washington, D.C., and West Virginia, Memorandum Opinion and Order, 18 FCC Rcd 5212 (2003)</u>
<u>Massachusetts Order</u>	<u>Application of Verizon New England Inc., et al., For Authorization to Provide In-Region, InterLATA Services in Massachusetts, Memorandum Opinion and Order, 16 FCC Rcd 8988 (2001), aff'd in part, dismissed in part, remanded in part, WorldCom, Inc. v. FCC, 308 F.3d 1 (D.C. Cir. 2002)</u>

<u>Minnesota Order</u>	<u>Application by Qwest Communications International, Inc., for Authorization To Provide In-Region, InterLATA Services in Minnesota, Memorandum Opinion and Order, WC Docket No. 03-90, FCC 03-142 (rel. June 26, 2003)</u>
<u>New Hampshire/Delaware Order</u>	<u>Application by Verizon New England Inc., et al., for Authorization To Provide In-Region, InterLATA Services in New Hampshire and Delaware, Memorandum Opinion and Order, 17 FCC Rcd 18660 (2002)</u>
<u>New Jersey Order</u>	<u>Application by Verizon New Jersey Inc., et al., for Authorization To Provide In-Region, InterLATA Services in New Jersey, Memorandum Opinion and Order, 17 FCC Rcd 12275 (2002)</u>
<u>New York Order</u>	<u>Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act To Provide In-Region, InterLATA Service in the State of New York, Memorandum Opinion and Order, 15 FCC Rcd 3953 (1999), <u>aff'd</u>, AT&amp;T Corp. v. FCC, 220 F.3d 607 (D.C. Cir. 2000)</u>
<u>Pennsylvania Order</u>	<u>Application of Verizon Pennsylvania Inc., et al., for Authorization To Provide In-Region, InterLATA Services in Pennsylvania, Memorandum Opinion and Order, 16 FCC Rcd 17419 (2001), <u>aff'd</u>, Z-Tel Communications, Inc. v. FCC, 333 F.3d 262 (D.C. Cir. 2003)</u>
<u>Texas Order</u>	<u>Application by SBC Communications Inc., et al., Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region, InterLATA Services In Texas, Memorandum Opinion and Order, 15 FCC Rcd 18354 (2000), <u>appeal dismissed</u>, AT&amp;T Corp. v. FCC, No. 00-1295 (D.C. Cir. Mar. 1, 2001)</u>
<u>Vermont Order</u>	<u>Application by Verizon New England Inc., et al., for Authorization To Provide In-Region, InterLATA Services in Vermont, Memorandum Opinion and Order, 17 FCC Rcd 7625 (2002), <u>appeal dismissed</u>, AT&amp;T Corp. v. FCC, No. 02-1152, 2002 WL 31619058 (D.C. Cir. Nov. 19, 2002)</u>

Virginia Order

Application by Verizon Virginia Inc., et al., for  
Authorization To Provide In-Region, InterLATA  
Services in Virginia, Memorandum Opinion and Order,  
17 FCC Rcd 21880 (2002)

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of

Joint Application by SBC Communications Inc.,  
Illinois Bell Telephone Company, Indiana Bell  
Telephone Company Incorporated, The Ohio Bell  
Telephone Company, Wisconsin Bell, Inc., and  
Southwestern Bell Communications Services, Inc.  
for Provision of In-Region, InterLATA Services  
in Illinois, Indiana, Ohio, and Wisconsin

WC Docket No. 03-167

**SBC'S REPLY COMMENTS  
IN SUPPORT OF ITS APPLICATION FOR PROVISION OF IN-REGION,  
INTERLATA SERVICES IN ILLINOIS, INDIANA, OHIO, AND WISCONSIN**

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**INTRODUCTION**

The local markets are open to competition in each of the applicant states, and competitors are entering on a massive scale. In Illinois, CLECs have captured at least 29% of Illinois Bell's total lines (i.e., between approximately 2.3 and 2.4 million lines in the state). See Heritage IL Aff. ¶ 4. In Indiana, CLECs have obtained between 15% and 21% of the total access lines in Indiana Bell's service area (between 393,000 and 574,000 lines). See Heritage IN Aff. ¶ 4. In Ohio, CLECs have captured between 20% and 29% of the total access lines in Ohio Bell's service area (or between 885,000 and 1.4 million lines). See Heritage OH Aff. ¶ 4. And, in Wisconsin, CLECs have captured approximately 25% of the total lines in Wisconsin Bell's service area (representing approximately 633,000 lines). See Heritage WI Aff. ¶ 4.

In light of this undisputed evidence of extensive local competition in each of the applicant states, it is no surprise that the vast majority of commenters in this proceeding support

SBC's application for interLATA relief. Having enjoyed the benefits of open competition in the local market, these commenters look forward to the benefits that will flow from such competition in long distance. The Illinois Chamber of Commerce, for example, explains that "[t]here is no doubt that a competitive marketplace gives consumers better prices, better choices, and better service. We are satisfied the users of telecommunications services in Illinois will be beneficiaries of a more competitive market if SBC's application for long distance service is granted." Illinois Chamber of Commerce Comments at 1. The Alliance for Public Technology strikes a similar chord, "strongly urg[ing] the Commission to seize this opportunity to increase facilities-based competition for local and long distance service, and promote ubiquitous broadband network deployment." Alliance for Public Technology Comments at 4.<sup>1</sup>

Other commenters take the openness of the local market for granted, and focus instead on the positive contribution SBC and its employees have made to communities throughout the Midwest region. See, e.g., CWA Local 4900 Comments at 1 ("SBC is a good corporate citizen with a very positive record of working with the CWA to preserve and expand career

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<sup>1</sup> See also, e.g., Comments of Todd Rokita, Indiana Secretary of State at 1 ("Indiana's entire economy will benefit if the Commission approves SBC's application to provide long distance service."); Comments of Dan Stevenson, Indiana State Representative, Chairman of the House Commerce Committee at 1 ("SBC Indiana's entry into the long distance market will spur competition even further here. My constituents, consumers, businesses and other organizations in my district, want to see those increased benefits."); Comments of Jim Petro, Ohio Attorney General at 1 ("[C]ompetition . . . results in a better product at a more favorable cost to our citizens. Offering the people of Ohio another option when choosing a long distance company is directly in line with my administration's policy of enhancing their overall experience as consumers."); Chicagoland Chamber of Commerce Comments at 1 ("We believe that SBC's entrance in the long distance market will promote competition in both the Illinois local and long distance markets."); Wisconsin Manufacturers and Commerce Comments at 1 ("If SBC is allowed to enter the long distance market, Wisconsin businesses will enjoy the fruits of more telecommunications competition and, moreover, will have the opportunity to receive long distance service from a company which employs over 6,500 Wisconsin workers.").

opportunities in our state.”); Eastern Ohio Development Alliance Comments at 1 (“The company’s capital investment, taxes paid, employees’ donations and community involvement have contributed much to the welfare of our region and the State of Ohio.”); Indiana AFL-CIO Comments at 1 (“SBC is a good corporate citizen in Indiana and a valued employer in our community. At a time when some other major telecommunications companies are running afoul of the law, SBC provides not only essential telecom services and consistently high quality service to competitors and business and residential customers – but also civic leadership.”); Comments of Paul Barrett, President, Kokomo, IN Branch of NAACP at 1 (“SBC has been a good corporate citizen and has, through its employees, actively participated in assisting the minority community.”).

Still other commenters attest to SBC’s efforts to ensure positive working relationships with its wholesale customers and thereby to provide a hospitable climate for them to compete in the local market. See, e.g., Comments of James Merrit, Jr., Indiana State Senator at 1 (“As Chairman of the Senate Utility and Regulatory Committee, I am very familiar with the major issues challenging the telecommunication industry today. The local phone market in this state is indeed open and competitive,” and “I am hopeful the FCC acts expeditiously and grants the SBC application.”); Greater Akron Chamber Comments at 1 (“The level of competition has intensified with the entry of residential providers MCI and AT&T, bringing even more choices for consumers and businesses in Ohio.”).

These commenters recognize what the state commissions in each of the applicant states have found: that SBC has taken all of the steps necessary to warrant interLATA relief. As SBC explained in its opening brief – and as the state commissions confirm in their comments on the

Application – the Indiana, Illinois, Ohio, and Wisconsin commissions stand squarely behind the work they have done in facilitating open local markets in their respective states, and they accordingly conclude that SBC has satisfied the checklist in each of the applicant states. Thus, for example, the Indiana Utility Regulatory Commission (“IURC”) found that “SBC Indiana is in compliance with checklist items (1) through (14)” and that SBC’s Application “is consistent with the public interest, convenience and necessity.” Comments of the Indiana Utility Regulatory Commission at 4. The Illinois Commerce Commission (“ICC”) likewise found, after considering “all the evidence, affidavits, comments, briefs, and briefs on exceptions filed” in the state proceeding, that “SBC satisfies Section 271(c)(1)(A) of the 1996 Act, is in substantial compliance with checklist items (i) through (xiv) of Section 271(c)(2)(B), and that SBC’s provision of interLATA services in Illinois is consistent with the public interest, convenience and necessity.” Consultative Report of the Illinois Commerce Commission at 4 (“ICC Comments”). The Public Utilities Commission of Ohio (“PUCO”) found that “SBC Ohio has opened its local market to competitive local exchange companies (CLECs) who wish to compete in Ohio” and “has done so by fully implementing the competitive checklist.” Comments of the Public Utilities Commission of Ohio at 1, 3. And the Public Service Commission of Wisconsin (“PSCW”), having “determine[d] . . . that SBC Wisconsin offers its competitors in Wisconsin nondiscriminatory access to unbundled network elements,” “supports SBC Wisconsin’s application to the FCC for long distance authority pursuant to § 271.” Determination (Phase II), Petition of Wisconsin Bell, Inc. for a Section 271 Checklist Proceeding, Docket No. 6720-TI-170, at 30 (PSCW July 7, 2003) (“PSCW Phase II Final Order”) (App. C-WI, Tab 67).

Particularly in light of these state commissions' unbiased, favorable evaluations of the Application, this Commission should be highly skeptical of the self-interested efforts by AT&T, MCI, and others to oppose it. As Chairman Powell has recognized, "[t]here will never be a 271 . . . to which there will not be a community of competitive entrants . . . like AT&T who will not scream that it was premature. Why? Because as far as they're concerned entry will never be right."<sup>2</sup> The time is right in SBC's Midwest region. The Application should be granted.

\* \* \* \*

The remainder of these Reply Comments are organized as follows: Parts I-III focus on issues that have been exhaustively addressed in the Michigan proceeding (WC Docket Nos. 03-16 & 03-138). Part I addresses allegations relating to SBC Midwest's provision of accurate and timely wholesale bills; Part II addresses SBC Midwest's processes and prices relating to line splitting; and Part III explains that SBC Midwest's performance data are stable and reliable, based on both the completed E&Y audit and the ongoing BearingPoint test. Part IV addresses specific issues concerning SBC's OSS in the Midwest region. Finally, Part V addresses a number of additional issues relating to pricing of interconnection and UNEs, loop provisioning, reciprocal compensation, and the "public interest" standard.

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<sup>2</sup> Powell Defends Stance on Telecom Competition, Communications Daily, May 22, 2001.

## DISCUSSION

### I. WHOLESALE BILLING

SBC's Application demonstrated that, in each of the applicant states, "it provides competing carriers with . . . wholesale bills in a manner that gives [them] a meaningful opportunity to compete." California Order, App. C, ¶ 39; see, e.g., Kansas/Oklahoma Order

¶ 163. Among other things, SBC demonstrated that:

- BearingPoint has conducted five (including Michigan) exhaustive tests of the SBC Midwest billing systems – pursuant to Master Test Plans developed in each state in consultation with the CLECs – and concluded that SBC Midwest satisfied 95 out of 95 applicable test criteria. See Brown/Cottrell/Flynn Aff. ¶¶ 24-42.
- In the wake of the transition to the Carrier Access Billing Systems ("CABS") for UNE-P, SBC Midwest reconciled CABS with its ACIS provisioning database to ensure that the databases matched one another, and E&Y validated that reconciliation process and its results. See id. ¶¶ 59-82.
- In response to allegations regarding rate tables, SBC Midwest put in place processes to ensure those tables accurately reflect the rates particular CLECs should be charged for particular products, and E&Y validated those processes, too, as well as their results. See id. ¶¶ 94-104.
- SBC Midwest has worked diligently to ensure that an extremely high percentage (approximately 96%) of billing service orders mechanically post to CABS, and E&Y validated the data supporting that figure as well. See id. ¶¶ 86-87.
- The volume of billing disputes in the four applicant states over the 17 months leading up to the Application is comparable to the volume seen in other states with section 271 relief, and the BOC Applicants are dedicated to working with their CLEC customers to resolve those disputes and have extensive processes in place for doing so. See id. ¶¶ 128-149.

Though numerous commenters allege problems with SBC Midwest's billing systems, none of them grapples with this evidence in any meaningful way. Instead, they focus on isolated allegations rich on rhetoric but unaccompanied by detail. SBC's prima facie evidence cannot, however, be ignored. With the exception of Michigan Bell in its pending application, SBC is

aware of no Bell company applicant for section 271 relief that has provided anything close to the volume of evidence that SBC has provided in this Application to demonstrate the accuracy and reliability of its wholesale bills. Commenters' failure seriously to contest that evidence should be enough, standing alone, to warrant a conclusion that the BOC Applicants satisfy their wholesale billing obligations under Checklist Item 2.

As it did in the pending Michigan application, the DOJ disagrees. In its view, "[t]he record does not permit the Department to conclude" that "SBC's billing performance is adequate." DOJ Eval. at 14-15. A careful review of the Evaluation, however, begs the question as to precisely what portion of the record the DOJ believes supports this result. The DOJ does not suggest that SBC Midwest has not carried its prima facie burden on this checklist item (nor could it, in view of the mass of evidence noted above). The DOJ points to the IURC's concerns related to billing, see DOJ Eval. at 10, but it does not suggest that those concerns outweigh or are more persuasive than the positive billing evaluations SBC Midwest has received from the ICC, the PUCO, the PSCW, and the Michigan PSC.<sup>3</sup> The Department also notes that SBC Midwest has acknowledged in its affidavits that it has made billing errors in the past, see DOJ Eval. at 9, 14, but it does not dispute the additional information, set forth in those same affidavits, that demonstrates that the errors in question either were not systemic or have been addressed with process changes that have themselves been validated. Finally, the DOJ disclaims reliance on the BearingPoint billing test because "BearingPoint apparently did not identify . . . errors" related to

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<sup>3</sup> To the extent the DOJ intends to suggest that the PSCW's newly initiated billing proceeding suggests that commission does not endorse Wisconsin Bell's billing showing for purposes of section 271, see DOJ Eval. at 10-11, it is mistaken. See PSCW Phase II Final Order at 21 ("On balance, the [PSCW] determines that SBC Wisconsin's billing systems are adequate for § 271 checklist compliance.").

the ACIS-CABS conversion, see DOJ Eval. at 13 n.54, but it does not so much as mention the fact that these errors were the consequence of a massive one-time transfer of data that is not remotely indicative of SBC Midwest's regular billing experience, or, more fundamentally, the comprehensive validation E&Y undertook to ensure that the errors resulting from that conversion were corrected.

Ultimately, then, the DOJ is left with the self-serving assertions of the CLECs that oppose the Application – i.e., the parties that stand to gain the most if SBC Midwest's entry into long distance is delayed still further. Although the Department acknowledges that it "cannot . . . verify that every CLEC complaint about billing is correct," it apparently believes these parties have identified enough billing disputes "to raise a genuine issue" regarding SBC Midwest's wholesale bills, such that SBC Midwest should be required to provide "additional evidence" in order to demonstrate checklist compliance. DOJ Eval. at 12, 14.<sup>4</sup>

As it did in Michigan, SBC welcomes the opportunity to provide such evidence. And, as in Michigan, SBC will start with AT&T's claim that it has identified 1,941 telephone numbers ("TNs") in Michigan for which it is being misbilled. See AT&T Comments at 32. Although the DOJ no longer describes these particular allegations as "credible," it continues to include them among the "billing issues" that gave it pause in Michigan and, presumably, here as well. DOJ Eval. at 13 n.56.

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<sup>4</sup> Conspicuously absent from the DOJ's recitation of CLEC comments on SBC Midwest's billing systems is any discussion of the one CLEC that has *endorsed* those systems. See Ex Parte Letter from Connie Mitchell, VarTec Telecom, Inc., to Marlene Dortch, FCC, WC Docket No. 03-138, at 2 (July 14, 2003) ("VarTec has received comparable or better billing performance from SBC in the Midwest than it has in the other SBC or ILEC states.").

As an initial matter, the TNs AT&T has identified are an incredibly small proportion of AT&T's UNE-P lines in service in Michigan. See Brown/Cottrell/Flynn Reply Aff. ¶ 38 (Reply App., Tab 2). AT&T's numbers thus prove absolutely nothing about the overall accuracy of SBC Midwest's billing systems, even assuming AT&T's allegations were true.

And, as SBC explained in the Michigan proceeding, they are most certainly not true. As SBC has explained both to AT&T and the Commission, SBC's initial analysis of AT&T's claims showed that approximately 75% of the so-called billing errors identified by AT&T are attributable to AT&T's own recordkeeping errors. See id. ¶ 39. These errors fall into a number of different categories. Some appear to be the result of the fact that AT&T never changed its records to reflect the telephone number that SBC Midwest actually assigned and communicated to AT&T, after its requested telephone number was no longer available. Others appear to be the result of AT&T's failure to update its records to reflect its own subsequent order requesting that the original telephone number be changed to a different telephone number. See id. ¶ 46 & Attach. A.

AT&T's response to this showing is, to be generous, unpersuasive. First, it complains that the manner in which SBC has provided information on the TNs in dispute renders it difficult to analyze SBC's response. See AT&T Comments at 34-35; AT&T's DeYoung/Tavares Decl. ¶ 13. SBC provided information to AT&T in the same format as AT&T itself provided it to this Commission. See Brown/Cottrell/Flynn Reply Aff. ¶ 40. If AT&T found that format cumbersome, it has no one to blame but itself. Second, AT&T asserts that some of the numbers which SBC claims are properly billed have no usage, thus suggesting that the bills are incorrect. See AT&T Comments at 35; see also DOJ Eval. at 13 n.56 (noting that AT&T has "disput[ed]